

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

STEVE ALAN MAHONEY,

Plaintiff,

v.

PIERCE COUNTY, et al.,

Defendants.

Case No. C10-5238BHS

ORDER ADOPTING REPORT
AND RECOMMENDATION

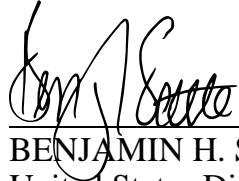
This matter comes before the Court on the Report and Recommendation (“R&R”) of the Honorable Richard J. Creatura, United States Magistrate Judge (Dkt. 30) and Plaintiff’s (“Mahoney”) objections to the R&R (Dkt. 34).

Magistrate Judge Creatura’s R&R recommends dismissing this case without prejudice because Mahoney failed to exhaust his remedies before proceeding on his 42 U.S.C. § 1983 claim in this Court. Dkt. 30. Prior to the magistrate judge issuing the R&R, Mahoney had not disputed the fact that he had not exhausted his remedies before filing this action. *See* Dkt. 30 at 2. Although Mahoney now argues that he did exhaust, his argument is merely a recital and is contradicted by his own statements. *See e.g.*, Dkt. 34 at 3 (stating what Mahoney believed would happen if he completed the grievance process). Mahoney has still not established that he has exhausted the grievance process, and therefore his current action is not properly before this Court. *See* 32 U.S.C. § 1997e(a) (requiring administrative remedies to be exhausted prior to filing suit under § 1983). The Court declines to address any other issue that has been presented in this case, and the action will be dismissed without prejudice.

1 The Court having considered the R&R, Plaintiff's objections, and the remaining
2 record, does hereby find and order as follows:

- 3 (1) The R&R (Dkt. 30) is **ADOPTED**;
- 4 (2) This action is **DISMISSED without prejudice**; and
- 5 (3) All other pending motions are **DENIED as moot**.

6 DATED this 30th day of March, 2011.

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9 BENJAMIN H. SETTLE
United States District Judge

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